

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

DAVID E. PAYNE

PLAINTIFF

v.

CIVIL ACTION NO. 3:11-cv-389-CWR-FKB

ACA, ET AL.

DEFENDANTS

REPORT AND RECOMMENDATION

This cause is before the court on Plaintiff's motion for a preliminary injunction (Docket No. 38). Injunctive relief is not appropriate unless a plaintiff satisfies the stringent test set out in *Mississippi Power & Light Co. v. United Gas Pipe Co.*, 760 F.2d 618 (5<sup>th</sup> Cir. 1985)(citing *Canal Authority of State of Florida v. Callaway*, 489 F.2d 567 (5<sup>th</sup> Cir. 1974)). A plaintiff must establish (1) a substantial likelihood that he will prevail on the merits; (2) a substantial threat that he will suffer irreparable injury if the injunction is not granted; (3) that the threat and injury to the plaintiff outweighs the threat and harm the injunction may do to the defendants; and (4) that granting the injunction will not disserve the public interest. *Mississippi Power & Light Co.*, 760 F. 2d at 621. Each requirement must be met before the court may grant the drastic remedy of injunctive relief. *Id.*

Plaintiff's motion meets none of the foregoing criteria, nor does it raise any issue as to which the undersigned considers a hearing necessary. Accordingly, the undersigned recommends that the motion be denied. The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendation contained within this report and recommendation within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed factual

findings and legal conclusions accepted by the district court. 28 U.S.C. § 636; Fed. R. Civ. P. 72(b); *Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

Respectfully submitted, this the 5th day of June, 2012.

s/ F. Keith Ball  
UNITED STATES MAGISTRATE JUDGE